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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,074

11/13/2003

Richard Allen Gill

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EXAMINER

MERCEDES, DISMERY E

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

04/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/712,074	Applicant(s) GILL, RICHARD ALLEN	
	Examiner DISMERY E. MERCEDES	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/13/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1,5,9 have been considered but are moot in view of the new ground(s) of rejection due to new added limitation. Furthermore, Applicants arguments are drawn to newly added limitation not previously presented, therefore not previously addressed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3,5,7,9,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaquette et al. (US 6,856,479) in view of Bitner (US 5,210,829).

As to Claim 1, Jaquette et al. discloses a method for writing data in a tape drive (fig.1, tape drive 10), the method comprising: allocating a blank area for transpose writing on a magnetic tape (col.5, lines 37-42 wherein short gaps (DSS or IBG) are in between data sets and comprises an unrecorded (i.e. blank area) portion); writing a first plurality of data sets on the magnetic tape adjacent to the allocated blank area (col.5, lines 36-37 wherein data sets are adjacent the gaps), wherein the tape drive maintains full operating speed during intervals between writing successive data sets, resulting in spaces between the data sets (col.5, lines 45-48 wherein data sets are successively written, each data set with a DSS and written with nominal spacing--the tape is stopped

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occasionally thus hence the tape operates at full operating speed during intervals between data sets, DSS), a single repositioning of the tape and writing a transposed data block to the allocated blank area, wherein the transposed data block contains the same content as the first plurality of data sets (col.5, lines 60-65 and col.7, lines 20-38 wherein it disclosed that tape is backhitched (i.e. repositioned) in order to write the data, and wherein accumulated transaction (i.e. transposed data block) 100,101 is written onto the magnetic tape which contains the same data as previous data 99).

Although Jaquette et al. discloses buffered data (data from buffer 30), Jaquette et al. fails to specifically disclose wherein identifying a data timeout wherein a data timeout occurs if buffered data are not detected within a specified period of time. However, Bitner discloses a tape drive wherein data stored in a buffer and a timeout occurs if the watermark (adjustable threshold) has not been reached (fig.5c and col.19, line 65-col.20 line 18). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement a data timeout routine as disclosed by Bitner in the method of Jaquette et al. the motivation being to provide fewer stall of the host computer and reduce the number unnecessary repositioning of the tape, thus reducing the mechanical wearing of the tape and tape heads (col.4, lines 35-38 of Bitner).

As to Claim 3, Jaquette et al. further discloses , wherein the data written to both the first plurality of data sets and the transposed data block is stored in a data buffer (data is stored in buffer 30 fig.1).

As to Claims 5,7 are apparatus claims drawn to the method of claims 1,3 and are rejected for the same reasons of obviousness as set forth in the rejection of claims 1,3 above.

As to Claims 9,11 have the same limitations as those treated in the rejection of claims 1,3 and are rejected for the same rationale as set forth in the rejection of claims 1,3 above.

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4. Claims 2,4,6,8,10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaquette et al. (US 6,856,479) in view of Bitner (US 5,210,829), further in view of Contreras et al. (US 5,995,306).

As to Claim 2, Jaquette et al. and Bitner discloses the method of Claim 1, but failed to specifically disclose allocating a second blank area for transpose writing adjacent to the transposed data block, wherein allocating the second blank area may include erasing a portion of the first plurality of data sets. However, Contreras et al. further teaches this limitation in (col. 4, lines 3-8- wherein Contreras discloses having multiple reserved portions in the tape for rewriting of data). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to modify the method as disclosed by Jaquette and Bitner, by implementing reserved portions as disclosed by Contreras et al. in order to be able to re-record defective data as taught in the Summary of Contreras et al.

As to Claim 4, Jaquette et al. and Bitner discloses the method of Claim 1, but failed to specifically disclose wherein the size of the blank area allocated for transpose writing is determined by the size of the data buffer and a specified data transfer rate. However, Contreras et al. further discloses such (col. 38, lines 61-67-wherein the size of the partition is determined based on buffer size and reading/recording rate). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to modify the method as disclosed by Jaquette and Bitner, with the above teachings disclosed by Contreras et al., the motivation being to determine the partition boundaries, in order to be able to re-record defective data as taught in the Summary of Contreras et al.

As to Claims 6, 8 are apparatus claims drawn to the method of claims 2,4 and are rejected for the same reasons of obviousness as set forth in the rejection of claims 2,4 above.

As to Claims 10, 12 have the same limitations as those treated in the rejection of claims 2,4 and are rejected for the same rationale as set forth in the rejection of claims 2,4 above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tackett (US 5,321,558); Call et al. (US 6,118,605); Bentley et al. (US 5,408,366); Uysai et al. (US 2004/0148462); Smith et al. (US 6,546,456).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISMERY E. MERCEDES whose telephone number is (571)272-7558. The examiner can normally be reached on Monday - Friday, from 9:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. E. M./

Examiner, Art Unit 2627

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627